

ADVISORY OPINION 93-012

Any advisory opinion rendered by the registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is required. KRS 121. 135(4).

October 5, 1993

Mr. Andrew Downs
Executive Director
KY Forward
P.O. Box 1628
Frankfort, Kentucky 40602-1628

Dear Mr. Downs:

Thank you for contacting the Registry and for providing us with additional information regarding your question. The facts of your question may be stated as follows:

The Kentucky Forward Association (the "Association") is a tax-exempt, non-profit corporation, organized as an IRS 501(c)(3)(6) non-profit corporation, registered in Kentucky. The Association wants to hold a campaign training program for which it will charge a registration fee, and the program will be open to the public, including anyone who is interested in becoming a candidate for office or anyone running for office in Kentucky as an incumbent or challenger. The Association anticipates that less than one hundred people will attend the training program. The registration fees (\$100.00 per person) collected by the association will not pay for each individual's tuition or the cost of holding the seminar program (approx. \$12,000.00).

The Association will hire a political training firm to conduct the program. The topics covered in the seminar will concentrate on teaching the candidate or potential candidate the use of strategy as well as sharing information with the candidate on election law compliance. Strategy subjects on the agenda will include media relations and campaign development plans.

Your question is in two (2) parts and may be stated as follows:

1. May the Association hold a training program for the public and future or current candidates (incumbents or challengers) running or contemplating running for political office in Kentucky, since the registration fee charged will not cover the full cost of operating the seminar and the resulting subsidy to those in attendance will aid or assist candidate(s) for public office?
2. The second part to your question asks if the subsidy above constitutes a corporate contributions.

The answer to the first part of the question is no. The Association may not hold the contemplated program. All facts in this question indicate that the Association will be subsidizing the tuition of those attending the seminar. The constitutional prohibitions against any corporation influencing an election

directly or indirectly are broad in scope and strict in terms of the limitations placed on corporations. The subsidy resulting from the facts here would constitute giving or advancing something of value to influence an election. The relevant portion of Section 150 of the Kentucky Constitution states:

...[I]f any corporation, shall, directly or indirectly, offer, promise or give, or shall authorize, directly or indirectly, any person to offer, promise or give any money or anything of value to influence the result of any election in this state or the vote of any voter authorized to vote therein, or who shall afterward reimburse or compensate, in any manner whatever, any person who shall have offered, promised or given any money or other thing of value to influence the result of any election or the vote of any such voter, such corporation, if organized under the laws of this commonwealth, ...shall forfeit all right to carry on any business in this state[.] Id., (emphasis added)

The statutory limitations placed on a corporation influencing an election are equally broad in scope and strict in applying limits. For instance, KRS 121.035(2) states in part:

... no officer, agent, attorney or employee of any corporation organized or authorized to do business in this state, or person acting for or representing any such corporation, shall disburse, distribute, pay out or in any way handle any money, funds or other thing of value that belongs to or is being furnished by any such corporation or any officer, agent, attorney or employee thereof to be used or employed in any way for the purpose of aiding, assisting or advancing any candidate for public office in any way whatever. Id., (emphasis added).

Other than certain individual exceptions established by the courts and the Registry board, the Registry strictly construes the limitations placed on corporate contributions or corporation influence of an election in Kentucky. The plain language of these statutes and constitutional section constitute a substantial bar to corporate influence of any election. Therefore, even if the monetary difference subsidized by the association in these facts was not a "contribution," the subsidy amount would still be money or a thing of value given to influence an election, and would not be permissible under KRS 121.035(2).

Because the candidates (and incumbent candidates) outlined by your question could be legislators, your question touches the area under the jurisdiction of the Ethics Commission. Therefore, the Registry would suggest that you contact the commission regarding this question. The Registry does not have jurisdiction over these matters and cannot give advice on how your question might affect legislators or candidates for the legislature in relation to applicable Kentucky ethics laws.

This opinion is based upon the course of action outlined in your letter. If you should have any more questions, please give us a call. Thank you.

Sincerely,

Timothy E. Shull
General Counsel

TES/dt